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August 23, 2000

Honorable Lloyd Richon  
Clerk of Council  
Lafayette City-Parish Council  
1010 Lafayette Street  
Lafayette, Louisiana 70502

RE: Statement Setting Forth Reasons Allowing Me to Vote On Ordinance O-147-00

Dear Lloyd:

Pursuant to LA R.S. 42:1120 (A) I am submitting this statement, setting forth the reasons why, in spite of the appearance of a conflict/potential conflict, I was able to vote on Ordinance Number O-147-00. Please cause this statement to be recorded in the official journal, minutes, or other official records of the Lafayette City-Parish Council in accordance with LA R.S. 42:1120.

The contract for solid waste collection within the Corporate Limits of the City of Lafayette, State of Louisiana, was due to expire on or about May 31, 2000. The Administration of the Lafayette City-Parish Government strongly advocated the renegotiation of the contract, as opposed to requesting bids for the collection of solid waste in the City of Lafayette pursuant to the public bid law.

After numerous presentations by the Administration, the Lafayette City-Parish Council voted to request bids for the collection of solid waste in the City and Parish of Lafayette, State of Louisiana, by official vote defeating Ordinance Number O-053-2000 on the 18th day of April, 2000.

Agenda item number 10, Ordinance Number O-053-2000 of the Lafayette City-Parish Council authorizing the City-Parish President to renegotiate the contract for residential waste, collection and disposal, make changes in the recycling program, and reduce the expenses and costs of the Environmental Quality Division, Motion adopted as amended (Amendment being to deal with waste only at this time and to add to Section One, Line Three after options "provide that the price charges per resident for the residential solid waste collection and disposal "including white goods and yard waste" does not require a charge to residential customers in excess of \$10.89 per month". The recycling and Environmental Quality components of this ordinance would be taken up in the form of a introductory ordinance at a special council meeting later this evening) by Williams, seconded by Castille came before the council on the 18th day of April, 2000.

I chose to recuse myself from the vote on that ordinance, stating that the law firm of Hill & Beyer, since 1988, has represented BFI in its legal matters. In January of 2000, I merged my firm with Hill & Beyer, now Hill, Beyer & Menard. Hill, Beyer & Menard continues to represent BFI in its legal matters in the Lafayette area. BFI would have an interest in bidding on the solid waste contract, should it be let out for bid. Therefore, I did not want to be a part of the decision

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making process in the ultimate vote on the issue of whether or not to renegotiate the waste contract with Waste Management of Acadiana or requesting bids.

Pursuant to the council's vote on the 18th day of April, 2000, by a vote of five (5) to three (3) in spite of my abstention to request bids for solid waste collection in the City and Parish of Lafayette. Again, I recused myself from that vote.

Bids were requested pursuant to the public bid law for the solid waste collection in the City and Parish of Lafayette. These sealed bids were opened on Tuesday, July 18, 2000 at 2:00 p.m. According to the Administration, the analysis of the bids revealed that BFI was in fact the low responsive bidder.

In spite of the fact that BFI had the low responsive bid, a special meeting of this council was called on the 1st of August, 2000, to consider Resolution Number R-041-2000 requesting the Administration present the council with alternatives to providing solid waste collection and disposal service such that the rates to be charged to the citizens do not exceed \$15.68 per month in the city with the present level of funding of environmental quality and \$12.54 in unincorporated area. I did not attend that meeting and did not take part in any discussions regarding that agenda item. It is my understanding that Resolution Number R-041-2000 failed by a vote of five (5) to three (3).

At the regular meeting of the Lafayette City-Parish Council on the 8th of August, 2000, Ordinance O-147-00 came up as item number twenty-two (22) on the agenda for that meeting. said ordinance was to establish service charges for collection and disposal of solid waste in the City and Parish of Lafayette. I participated in the discussions and vote of that ordinance, as that ordinance simply set the rates for solid waste collection and disposal in and for the City and Parish of Lafayette, pursuant to the low responsive bid for same.

Item twenty-three (23) of the August 8, 2000, agenda for the Lafayette City-Parish Council was Ordinance O-148-2000 which granted the authority to the City Parish President to execute a contract for residential waste collection and disposal in the City and Parish of Lafayette. I personally did not take part in any discussions on this item nor was I present at the time the vote was taken on this ordinance.

As evidence by all minutes of this council, I only voted on Ordinance O-147-00, setting the rates for solid waste collection and disposal for the City and Parish of Lafayette, all pursuant to the low responsive bid obtained by the request for bids pursuant to the public bid law. I did not participate in any discussions or votes regarding the issue of whether or not to bid the solid waste contract, to renegotiate same, or to reject the bids.

In the Office of the Attorney General, State of Louisiana, Opinion Number 76-1854, January 5, 1977. The Attorney General gave an opinion pursuant to the request by the Police Jury of Union Parish as to whether or not the Union Parish Police Jury could legally accept the lowest bid from the North Louisiana Farmers Association when four members of the Police Jury were stockholders in such association. After review of the relevant statutory authority, court decisions and prior opinions of the Attorney General's Office, the Attorney General opined that if the statutory procedure relevant to advertising and letting of contracts were complied with, then the Union Parish Police Jury could award the contract to North Louisiana Farmers Association, if such association was in fact the lowest responsible bidder.

The matter at hand is further removed from the facts in the Louisiana Attorney General's Opinion Number 76-1854. I personally own no ownership interest of BFI, unlike the four Police Jury Members which were stockholders of Louisiana Farmers Association. I am a shareholder in a law firm who represents one of the bidders. Clearly, if the Union Parish Police Jury could legally accept the lowest responsive bid from an entity in which four of its members were shareholders, then I could legally vote with this council to accept the bid of an entity which I hold no ownership interest in, but simply do business with. None the less, I chose not

to vote on any ordinances pertaining to the granting of the contract but only voted on the ordinance setting the rates for the solid waste collection disposal in and for the City and Parish of Lafayette.

I fail to see that there was and/or is any conflict of interest in my vote on Ordinance Number O-147-2000, but simply wanted to provide a statement explaining same due to the fact that the question arose during the regular scheduled meeting of the Lafayette City-Parish Council on August 8, 2000. Again, please cause this statement to be recorded in the official journal, minutes, or other official records of the Lafayette City-Parish Council, and attach same to the minutes of the August 8, 2000 meeting in order that it remain a part of the permanent record for that meeting.

Lastly, please provide me with a copy of this statement as it appears in such published or recorded official journal, minutes, or record of the council to submit to the proper ethics body pursuant to LA R.S. 42:1120.

Should you have any questions and/or comments, please do not hesitate to contact me.

With kindest regards, I am

Very truly yours,

  
RANDALL L. MENARD

RLM/kml

Enclosures

SWORN TO AND SUBSCRIBED before me this 23rd day of August, 2000 at Lafayette, Lafayette Parish, Louisiana.

  
KAREN N. TOUCHET